

INSTRUCTIONS FOR APPLICATION FOR RIGHTS OF WAY ON STATE LANDS

WHEN ACCEPTING APPLICATIONS FOR EASEMENTS THE STATE LAND BOARD REQUIRES THE FOLLOWING:

1. An original and one copy of completed application.
2. An original and one copy (or two copies) of plat or survey.
3. A statement signed by the State Surface Lessee(s) which indicates arrangements have been made for compensation for leasehold damages, if any.¹
4. A statement signed by the applicant which gives the reason(s) why application is made on State land rather than an alternative.
5. A professional Cultural Survey.²

THE APPLICATION must be signed in a manner which reflects the name of applicant as you wish it to appear on the easement right of way deed. Immediately above the signature are spaces to indicate the acreage requested from each 40 acre subdivision or government lot.

IF THE LEGAL subdivision or metes and bounds description does not appear on the plat or survey it must appear at the top of reverse side of application. The surveyor must sign either the survey plat or the affidavit on the application form.

THE SURVEY **must show the quantity of land taken by the proposed easement from each forty-acre tract or government lot of State land over or through which it passes and also the amount of land remaining in each portion of such forty-acre tract or government lot (part of Section 77-2-102(2) MCA).** If the requested right of way will cross more than one section of trust land, the survey may include all State tracts on the one survey. However, this is not applicable to the application. A separate legal description and application must be made for each section of land the application is made on.

APPLICATIONS for a private access road must include a statement as to why access is needed across the state -- specifically, what other routes were considered and why no other alternate route is available or viable. A map of the surrounding area ownership should be included as a reference aid when discussing alternate routes. In addition, the full and exact legal description of the lands applicant is trying to secure access to must also be included.

ALL PRIVATE ROAD ACCESS EASEMENTS for the purpose of access to one single family residence and/or farm and ranch activities and timber and resource management shall be limited to a maximum width of 30 feet, unless additional width is deemed necessary by field staff. All applicants requesting easements shall be subject to the easement valuation formula discussed in the Access Road Easement Policy.

IN THE EVENT an easement applicant wishes to acquire an access easement for subdivision purposes, as defined in the Access Road Easement Policy, or for potential future development of more than one existing residential housing unit on applicant's private lands, an access conveyance fee will be assessed. This fee is assessed separate from the land valuation referenced in the paragraph above. Additionally, in some circumstances, an application may be required to create a Road User's Association as outlined in the policy. Please discuss with the appropriate DNRC Area/Unit Office for details.

UNDER TERMS of a State Surface Lease for agriculture, the Lessee has the basic right to graze or seed crops on approved acres. The State has retained the right to sell minerals, other non-conflicting uses, and to sell rights of way easements. Before the State sells an easement, the Surface Lessee **must** be compensated for any damages to improvements (i.e. road, summer fallow, forage, water developments, buildings, fences, etc.), crops, or leasehold interests (ref. §77-2-107 MCA).

ALL AGENCIES OR PERSONS interested in putting a project on School Trust lands should contact the area office that handles the county the request is in. Contact with the area office should be made before an actual survey is done. After an on-site inspection, the area manager will consider whether the project is in the best interest of the trust. If there are no problems, a survey may be conducted and formal application may be made. All easement applications are to be sent to the appropriate area office for review.

A NON-REFUNDABLE \$50.00 APPLICATION FEE **MUST** ACCOMPANY THE APPLICATION WHEN SUBMITTED BEFORE ANY PROCESSING WILL BEGIN.

¹Notice of Lessee Settlement Statements must be signed by all parties named on the surface lease. Signatures by person(s) acting on behalf of the leaseholder(s) will only be accepted if the statement is accompanied by a certified copy of a Power of Attorney authorization. Additionally, statements signed by individual(s) acting as Personal Representative(s) of a lessee's estate will only be accepted when accompanied by documentation appointing the signatory as Personal Representative. It is in the applicant's best interest to ensure that, prior to submittal, application materials are accurate and complete in order to prevent delay in processing.

²To aid in processing an application, a cultural survey conducted by an approved professional is recommended, unless waived by the department's staff archaeologist. Applicants may elect to wait for department staff to conduct the survey, but should be aware this could delay processing of their application for their project.

APPLICATION FOR RIGHT OF WAY EASEMENT IN STATE LANDS

(Application Fee -- \$50.00)

NOTE: Easement requests are processed on a first come, first served basis. Department review of complete application packages may take a minimum of 120 days. Incomplete applications and those requiring further information may take longer.

The best method of describing the land needed for the right of way in all such cases is to describe the centerline and give the width on each side.

Please locate the starting point of the proposed right of way by giving its distance and bearing from the nearest public survey monument in the same section; then give the bearing and distance of each course of the line; and locate the terminus in the same manner as the starting point; whenever the line intersects a quarter section line, locate the point of intersection in the same manner also.

The description given in the application will be copied into the right of way deed. It must be so definite and complete that from it the right of way may readily be located upon the ground without the plat.

If the right of way runs through an intervening tract which is *not state land*, it may be shown on the tracing or plat, but *must not* be included in the description in the application as this might result in errors in writing the deed.

No application should include land in more than one section. Show the acreage required for the right of way in each forty-acre tract of *State land* in the place provided in this blank.

The application must be signed by or for the applicant, and certified correct by the endorsement of the engineer. *Write the name of the applicant exactly the way it is to appear in the deed.*

TRACING OR PLAT. Tracings or plats must accompany the application. These tracings or plats should be so plain that anyone can readily ascertain the section, township and range and see what forty-acre tracts the right of way runs through. A scale of 1 inch to 400 feet is commonly used.

There must be two copies of the tracing or plat duly verified by the affidavit of the land surveyor who has prepared the same endorsed thereon. They must show the "quantity of land taken by the proposed highway or street or other easement from each forty-acre tract or government lot of State land over or through which it passes and also the amount of land remaining in each portion of such forty-acre tract or government lot." (Part of Section 77-2-102(2) Montana Code Annotated)

For the sake of reference other than State lands may be shown on the plat, but they should be indicated by different colors. *If the proposed right of way follows a river or railroad right of way or other right of way, such river or right of way should be shown and also the area of the intervening strip, if any.*

The affidavit of the surveyor or professional engineer to be endorsed on the *tracing or plat* should be substantially in the following form:

STATE OF MONTANA,
County of _____ SS.
_____, being duly sworn says: That he/she is the _____ who made the survey of the right of way shown hereon; that the survey was correctly and accurately made; that the tracing or plat thereof is true and accurate and that it correctly shows the quantity of land required for the right of way in each forty-acre tract or government lot and also the amount of land remaining in each portion of such forty-acre tract or government lot.
Subscribed and sworn to before me this _____ day of _____, 20____
Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

_____, Montana, _____, 200____
**To the State Board of Land Commissioners
State of Montana**

Application is hereby made under the provisions of Section 77-2-101 through Section 77-2-107 of the Montana Codes Annotated, 1979, and Acts amendatory thereto by _____
_____ for a right of way easement for _____
through _____, Section _____, Township _____, Range _____, County of _____.

Duly verified tracings or plats in duplicate accompany this application and are made a part hereof. The tract or strip of land required for the said right of way is more particularly described as follows:

A tract or strip of land _____ feet wide, _____ feet on each side of a centerline described as follows:

DESCRIPTION

ACREAGE TAKEN FROM EACH FORTY OR GOVERNMENT LOT OF STATE LAND

			Forwarded		acres
NE ¹ / ₄ NE ¹ / ₄		acres	NE ¹ / ₄ SW ¹ / ₄		"
NW ¹ / ₄ "		"	NW ¹ / ₄ "		"
SW ¹ / ₄ "		"	SW ¹ / ₄ "		"
SE ¹ / ₄ "		"	SE ¹ / ₄ "		"
NE ¹ / ₄ NW ¹ / ₄		acres	NE ¹ / ₄ SE ¹ / ₄		acres
NW ¹ / ₄ "		"	NW ¹ / ₄ "		"
SW ¹ / ₄ "		"	SW ¹ / ₄ "		"
SE ¹ / ₄ "		"	SE ¹ / ₄ "		"
Forward		acres	Total		acres

Signature of Applicant
(as the same is to appear in
the deed)

By

Address

(SEAL)

LAND SURVEYOR

I _____, the Land Surveyor who surveyed the right of way for which application is hereby made, do hereby certify that the description of the right of way as given in this application is accurate and correct in every particular according to the survey and that the acreage required for the right of way through each forty-acre tract under this petition is correctly given.

Dated at _____, this _____ day of _____, 200__

Address